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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
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Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 July 1991]

1. The International Federation of Human Rights (IFHR) and its affiliate organization, the Viet Nam Committee on Human Rights, are concerned that the Socialist Republic of Viet Nam is invoking articles in the Criminal Code relative to national security in order to arrest and detain citizens for the peaceful expression of their beliefs or for legitimate political or religious activities.

2. The Vietnamese Criminal Code (1986) and the Criminal Procedure Code (1988) contain a number of articles providing for the severe punishment of all

acts or intentions perceived to threaten State security. In the Criminal Code, 14 offences relating to national security may incur the death penalty as maximum punishment. "Actions that disrupt public security" (article 83), "causing divisions between the religious and non-religious and separating religious followers from the people's Government and social organizations" (article 81) and the "spreading of propaganda against the Socialist regime" (article 82) are all perceived as "especially dangerous crimes against national security".

3. The IFHR and the Viet Nam Committee are particularly concerned about the recent arrest of the novelist Duang Thu Nuang in Hanoi on 14 April 1991. She is charged with "collecting and sending out of the country documents harmful to State security" (Hanoi daily Nhân Dân of 1 May 1991). Under article 82 (c) of the Criminal Code, this offence is punishable by 10 to 12 years' imprisonment, or by life imprisonment or the death sentence under article 72 (1). The document which Duong Thu Nuong is accused of sending overseas does not contain State secrets or material harmful to national security; it is simply the manuscript of her latest novel, The Arch of Triumph, which is now in the possession of the Viet Nam Committee on Human Rights.

4. In 1990, following a series of declarations in favour of human rights, Duong Thu Huong was expelled from the Vietnamese Communist Party, and subsequently fired from her job as scriptwriter at the Film Unit Committee in Hanoi. The novel she had in publication was confiscated and banned. She and her family were subjected to intense psychological pressure, and she narrowly escaped three attempts on her life by agents of the Security Police. Duong Thu Huong is now under house arrest in a residence belonging to the Hanoi Ministry of the Interior. Her health is reportedly poor, and she is in need of treatment but refuses to be admitted to hospital for fear of a further attempt on her life. Her arrest constitutes a violation of article 19 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to freedom of expression.

5. The IFHR and the Viet Nam Committee are concerned that many other writers are detained on charges relating to State security, particularly for sending manuscripts overseas. Writer Doan Quoc Sy, now 68 years old, is serving a nine-year sentence in Xuân Lôc re-education camp accused of intending to send manuscripts abroad. Poet Nguyen Chi Thien is detained in Ba Sao Camp, Ha Nam Ninh, after passing a manuscript of prison poems to a Western embassy in 1979. First arrested in 1958 for participating in the "Hundred Flowers" movement for freedom of expression, Nguyên Chi Thiên has spent over 30 years in prison, and has never been granted the right to a trial. He is in extremely poor health after such long detention. The long-term imprisonment without trial of Nguyên Chi Thiên violates article 9 of the ICCPR. The detention of writers suspected of sending manuscripts abroad is incompatible with article 19 (2) of the ICCPR which guarantees the right to "seek, receive and import information and ideas of all kinds, regardless of frontiers".

6. Article 74 (1) (c) of the Criminal Code defines it a crime to "supply information and documents which are not State secrets so they can be used by foreign countries against the Socialist Republic of Viet Nam". The IFHR and

The Viet Nam Committee believe this is inconsistent with the right of freedom of expression guaranteed in the Vietnamese Constitution (article 67) and with the provisions of the ICCPR.

7. In November and December 1990, a large number of journalists and writers were arrested in Viet Nam. They have not been formally charged, and in most cases their place of detention is not known. Journalist Le Van Tien (Nhu Phong), 68 years old, who suffers from a heart condition, was arrested in November 1990 on the eve of his legal departure to the United States; former Deputy Nguyen Mau, 76 years old, was arrested on 4 December 1990, and is reportedly being held at Bach Dang Prison No. 3; poet To Thuy Yen was arrested in December 1990; Doan Viet Hoat, former assistant rector of Van Hanh University, was arrested on 20 December 1990. Other writers and journalists arrested during this period include Vuong Duc Le, Ho Nam, Pham Thai Thuy, Chau Son, Pham Duc Kham, Nguyen Dan Que.

8. The IFHR and the Viet Nam Committee believe that these prisoners are denied access to relatives and legal counsel. Their detention is therefore a direct violation of principles 17 and 18 of the Body of Principles for Protection of All Persons under Any Form of Detention or Imprisonment.

9. The legislation under which these writers are being held has not been made public, but it is probable that they will be detained under article 17 of the Criminal Procedure Code which provides for temporary detention pending investigation. Article 71 stipulates that temporary detention "cannot exceed four months" for the most serious crimes, or two months for lesser crimes. However, article 71 (2) states that "when necessary, for crimes of particular danger to national security, the Chief Procurator (head of the People's Supreme Organ of Control) may further extend the period". As no time limit is stated the IFHR and the Viet Nam Committee fear that this may allow for indefinite detention without trial, and as such contravene articles 9 (1) and 9 (3) of the ICCPR which guarantee the security of person and the right of anyone arrested or detained to be "brought promptly before a judge or other officer authorized by law to exercise judicial power".

10. The Vietnamese official press gives substantial evidence of cases where pre-trial detention is well in excess of the stipulated two-to-four-month period. The Saigon magazine Tuôi Tre reported on 23 March 1991: "442 cases of excessive pre-trial detention were recorded in Chi Hoa (the Saigon Central Prison). In one case, the accused had been detained since 1984, in 11 other cases prisoners had been held since 1987, 12 others since 1988 and a further 142 since 1989 ... One major reason for excessive pre-trial detention is that people are frequently arrested without sufficient proof for charges to be made."

11. The IFHR and the Viet Nam Committee are equally concerned about the number of people detained under house arrest because of their beliefs or opinions. Article 61 of the Criminal Procedure Code empowers the authorities to arrest people "in order to promptly halt a criminal action, or when there is a basis for believing that the accused or defendant will create difficulties for the investigation, adjudication or prosecution, or will continue to commit crimes". Frequently, house arrest is in a place away from

home. Detainees are generally kept in total isolation and denied the right to receive visits and exchange correspondence. Nguyen Ho and Ta Ba Tong, respectively former chairman and vice-chairman of the "Club of Former Resistance Fighters" have been under house arrest in Ho Chin Minh City since May 1990 following the movement's call to accelerate political reforms.

12. Catholic priest Father Chân Tin and Catholic intellectual Nguyên Ngoc Lan were also placed under house arrest in Ho Chi Minh City on 16 May 1990, reportedly on charges of "causing divisions between the religious and the non-religious...". Father Chân Tin refused to sign an order of expulsion and house arrest presented by the security police, and was immediately arrested. Nguyên Ngoc Lan signed his three-year house arrest order under coercion and is now under permanent surveillance at his home. Indeterminate house arrest without charge is contrary to all international standards of law. It contravenes the Criminal Code (article 2) and the Criminal Procedure Code (article 10) which guarantee the right not to be deemed guilty or punished except by a court judgement that has taken legal effect. It also contravenes article 9 of the ICCPR.

13. Furthermore, the arrest and detention of Father Chân Tin and Nguyên Ngoc Lan for the peaceful expression of their religious beliefs violate article 18 of the ICCPR which guarantees the freedom of thought, conscience and religion, which is a non-derogable right (article 4 (2) of the ICCPR).

14. The IFHR and the Viet Nam Committee welcome the efforts of the Socialist Republic of Viet Nam towards economic reform. Nevertheless, the IFHR and the Viet Nam Committee are deeply concerned by the constant and systematic violations of human rights in this country, and strongly urge the Sub-Commission to examine the human rights situation in the Socialist Republic of Viet Nam during its forty-third session.